

DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
BUREAU OF REVENUE SERVICES**Rule No. 102 (18-125 CMR 102)****ELECTRONIC FUNDS TRANSFER (EFT)**

SUMMARY: This rule describes the requirements for tax and other payments by electronic funds transfer. The provisions of this rule apply to payments of taxes imposed by Title 36 M.R.S.A. as well as to payments processed by Maine Revenue Services for other agencies of Maine State Government pursuant to agreements with those agencies. Authority to collect taxes electronically is provided in 36 M.R.S.A. 193. An electronic funds transfer allowed by Maine Revenue Services is considered a "return" for purposes of state tax law.

This rule does not prohibit the collection of taxes or other payments processed by Maine Revenue Services by credit card or other payment mechanism, with the exception of mandatory EFT participation defined in section .02 paragraph A below.

OUTLINE OF CONTENTS:

- [.01] Definitions**
- [.02] Mandatory EFT participation**
- [.03] Voluntary EFT participation**
- [.04] Registration**
- [.05] Payments**
- [.06] Tax Returns**
- [.07] Request for waiver from mandatory participation**
- [.08] Suspension from EFT program participation**
- [.09] Prenotifications and tests**
- [.10] CTX files**
- [.11] Emergencies**
- [.12] Problem resolution**
- [.13] Interest & Penalties**
- [.14] Taxpayer/Service Provider Responsibilities**

[.01] DEFINITIONS

As used in this rule, the following terms have the following meanings:

A. "ACH" or "Automated Clearing House" means a central distribution and settlement point for the electronic clearing of debits and credits between financial institutions. An automated clearing house may be

a Federal Reserve Bank or any organization with an operating agreement with NACHA that operates as a processing agent for ACH transactions between financial institutions.

B. "ACH Credit" means an electronic transfer of funds using the ACH network that is originated by a taxpayer through its financial institution to credit (deposit) funds to a designated State of Maine bank account and debit (withdraw) funds from the taxpayer's bank account for a payment amount.

C. "ACH Debit" means an electronic transfer of funds initiated by Maine Revenue Services, upon taxpayer instruction, to debit a taxpayer's designated bank account and credit funds to a designated State of Maine bank account.

D. "ACH Network" means the electronic funds transfer system governed by the rule of NACHA.

E. "Addenda Record" means an ACH record type that carries the supplemental data needed to completely identify a person's tax payment.

F. "Bankwire" see "Wire Transfer."

G. "Bureau" means the Bureau of Revenue Services, known as Maine Revenue Services, and formerly known as the Bureau of Taxation.

H. "CCD+," "CCP," or "Cash Concentration or Disbursement Plus Addenda" means a standard ACH transaction format that is accompanied by one addenda record.

I. "CIE+" or "Customer Initiated Entry" is a standard ACH transaction format. A CIE entry is a credit entry that is initiated by or on behalf of the holder of a consumer account to effect a transfer of funds to the deposit account of a receiver. It is accompanied by one addenda record in the plus format.

Note: an addenda record for CIE entries is effective September 19, 1997 according to NACHA Rules. CIE entries were created for electronic transfer of funds for consumer bill payments.

J. "CTX" or "Corporate Trade Exchange" means a standard ACH transaction format that accommodates multiple addenda records.

K. "Deposit date" see "Settlement Date."

L. "Director" means the Executive Director of the Bureau of Revenue Services (Maine Revenue Services).

M. "Effective Date" or "Effective Entry Date" means the date specified by the originator on which it intends a payment to be settled. The "Effective Date" specified by a taxpayer or service provider is the date it intends the payment to be deposited into a State of Maine bank account.

Note: NACHA Rules state that for credit entries, "... the effective entry date shall be either one or two banking days following the banking day of process as established by the Originating ACH Operator (the processing date)."

N. "EFT" or "Electronic Funds Transfer" means a standard ACH funds transfer to credit or debit a bank account or wire transfer. Electronic funds transfer does not include payments by check, draft or similar paper instrument.

O. "EFT Unit" means the designated section of Maine Revenue Services charged with administering electronic funds transfer programs.

P. "Intra-bank Transfer" means the transfer of funds from a depositor's account to a State of Maine bank account within the same financial institution. Intra-bank transfers are only allowed in an emergency situation when a normal ACH payment cannot be made.

Q. "Lookback Period" is the period of 12 or fewer months used by the Bureau in order to determine whether EFT thresholds, based on reported tax liability, are met or exceeded. In the case of individual income tax withholding, the lookback period is July 1 through June 30 of the previous year. In the case of corporate income taxes, the lookback period is the company's tax year (calendar or fiscal). For all other taxes, the lookback period is the most recent calendar year.

R. "NACHA" or "North American Clearing House Association" is the national regulatory body that establishes the standards, rules and procedures governing the ACH Network.

S. "Payment date:" see "Settlement Date."

T. "Person" means an individual, firm, partnership, association, society, club, corporation, estate, trust, business trust, receiver, assignee or any other group or combination acting as a single taxable entity.

U. "Prenotification" or "prenote" means a zero dollar entry that may be sent through the ACH at least six (6) business days prior to live entries affecting an account at a financial institution.

V. "RTN/ABA" number means the routing transit and American Banking Association numbers assigned to financial institutions. This is a nine digit number with position nine computed according to a check-digit formula.

W. "Return" means any document containing information required by Title 36 M.R.S.A. to be reported to the Director.

X. "Service Provider" means a person who performs accounting services, prepares tax documents, performs similar services, and remits tax payments on behalf of its clients. Examples of service providers are payroll processors as that term is defined in Title 10 chapter 222; accountants; third-party withholders such as banks; and bill-paying services.

Y. "Settlement Date," "Deposit date" or "Payment date" all mean the date an electronic payment is deposited in a bank account designated by the State of Maine for deposit of electronic tax payments. The dates also include the date a prenotification transaction occurs. Generally, the "settlement date" is the same as the effective entry date.

Z. "Standard EFT Payment Methods" means the ACH credit method or the ACH debit method of electronic funds transfer.

AA. "Tax" means the total amount required to be paid, withheld and paid over, or collected and paid over with respect to estimated or actual tax liability under Title 36, including any interest or civil penalty relating thereto. "Tax" also means Unemployment Insurance contributions required to be paid to the State of Maine pursuant to Title 26.

BB. "Taxpayer" means any person required to file a return under Title 36 or to pay, withhold and pay over or collect and pay over any tax imposed by Title 36 or an Unemployment Insurance contribution imposed by Title 26. For purposes of this rule "Taxpayer" also means a service provider.

CC. "Taxpayer identification number" means the account number assigned by Maine Revenue Services to a person's tax account.

DD. "Tax Payment Convention" or "TXP" means the standard format developed by the Federation of Tax Administrators and the Banker's EDI Council of NACHA and approved by the Banker's EDI Council of NACHA that identifies tax payments in the addenda record portion of a CCD+ ACH transaction.

EE. "Wire Transfer" or "Bankwire" mean the same day transfer of funds from a depositor's account to a State of Maine bank account. Fedwires do not contain a standard addenda record and may be used only in an emergency situation.

FF. "Zero dollar payment" means a prenotification-type transaction that is formatted as a payment and contains an addenda record.

[.02] MANDATORY EFT PARTICIPATION

A. GENERALLY. Effective January 1, 2008, any person with a combined tax liability to the State of \$100,000 or more for all tax types during the most recent lookback periods ending during the prior calendar year is required to remit all Maine tax payments electronically using either the ACH credit or ACH debit method. Effective January 1, 2009, any person with a combined tax liability to the State of \$50,000 or more for all tax types during the most recent lookback periods ending during the prior calendar year is required to remit all Maine tax payments electronically using either the ACH credit or ACH debit method. Effective January 1, 2010, any person with a combined tax liability to the State of \$25,000 or more for all tax types during the most recent lookback periods ending during the prior calendar year is required to remit all Maine tax payments electronically using either the ACH credit or ACH debit method. The term "tax types" as used in this paragraph does not include taxes excluded from mandatory participation in the EFT program under paragraph C below.

B. NOTIFICATION BY BUREAU. Maine Revenue Services will periodically review the payment histories of taxpayers, employing the lookback periods in order to determine which taxpayers are required to make payments via EFT. When the Bureau determines that a taxpayer is liable for making payments

electronically, the taxpayer will be notified and provided with the necessary registration forms or in the case of internet filing the internet address to establish an EFT account with the Bureau. The taxpayer has 30 days after such notification to complete and return registration materials. After EFT registration, the taxpayer will be provided with the information listed in section .04, paragraph F of this rule. The mandated taxpayer has 60 days or the first applicable due date, whichever is later, after receipt of the information listed in section .04, paragraph F of this rule to begin remittance of taxes by EFT.

C. EXCLUDED TAXES. The Maine Revenue Services EFT program is intended for all taxes collected by the Bureau except the following tax types:

1. Property taxes imposed by Title 36, Part 2
2. Commercial Forestry excise taxes imposed by Title 36, Part 4

D. SERVICE PROVIDERS. Service providers (other than payroll processing companies) that remit taxes on behalf of a client must remit electronically for that client using a standard EFT payment method if their client is mandated to pay the tax electronically. Payroll processing companies must remit electronically for all clients regardless of whether those individual clients are mandated. A payroll processing company may request a waiver from this requirement from the Director for good cause.

NOTE: Service providers must use the ACH Credit Method under most circumstances (see section .04, paragraph D below).

E. TAXPAYERS ALREADY REMITTING BY EFT.

1. When a taxpayer is notified of mandatory EFT status and is already remitting tax electronically on a voluntary basis, no further action is required.
2. When a taxpayer is notified of mandatory EFT status and is not currently remitting all taxes electronically, but is remitting one or more tax types electronically, one of the following applies:
 - i. ACH credit method taxpayers must request general and tax-specific information and addenda layout(s) for the mandated tax(es). An additional EFT application is not required.
 - ii. ACH debit method taxpayers must request debit program information. An additional EFT application may be required.

[.03] VOLUNTARY EFT PARTICIPATION

Taxpayers who are remitting electronically prior to January 1, 1999 on a voluntary basis may continue in the program and need not take any action unless notified by the EFT unit. Refer to section .04, paragraph H for information about changing EFT payment methods.

Taxpayers who have not previously remitted electronically and who are not mandated may request voluntary participation in the Bureau's electronic funds transfer program. Continuation of voluntary EFT status or acceptance of new EFT participants is at the discretion of the Director.

[.04] REGISTRATION

A. GENERALLY; ONLY ONE EFT PAYMENT METHOD ALLOWED PER TAXPAYER.

Mandatory and voluntary participants in the Bureau's electronic funds transfer program are required to register as specified by the Director. A taxpayer must choose one EFT payment method, either the ACH credit method or the ACH debit method; no taxpayer may use both methods unless criteria in paragraph E below are met. EFT applicants must have existing tax account(s) with the Bureau prior to EFT registration for any tax account requiring registration. Tax registration is accomplished by completing the Application for Tax Registration and submitting it to the Central Registration Unit.

B. ACH CREDIT METHOD PROGRAM. For taxpayers, including service providers, choosing the ACH credit method, one EFT application may be used even if payments will be made by one "person" for multiple business entities. All applicants must be able to transmit funds using the ACH CCD+ format and TXP Convention. The Director will consider the feasibility of accepting ACH transactions in the CIE+ and other ACH formats if requested by a taxpayer. Any service provider remitting for 25 or more separate taxpayer accounts may request to make payments using the ACH credit method and CTX format. (See section .05 paragraph B and section .10 below).

When there is a change in ownership of a taxpayer, a new registration application must be submitted. Taxpayers are not required to complete additional EFT applications to add new tax accounts to the ACH credit method program. Accounts may be added by notifying the EFT unit of the taxpayer name, account name, type of tax, account number and original applicant name.

Note: The ACH credit method requires the taxpayer to have a relationship with a financial institution that supports credit method transactions for its customers. Payments to the State through the financial institution are usually initiated by:

1. Sending a computer file in a specified format to the bank. This requires software. (Maine Revenue Services will provide ACH file specifications upon request); or
2. Using a service of the bank or another vendor by telephone or computer/modem input.

C. ACH DEBIT METHOD PROGRAM. For taxpayers choosing the ACH debit method, separate EFT registration is required for each taxpayer. The applicant may be required to provide either a voided check or complete the validation section of an ACH debit application. If a taxpayer has a change in bank or bank account number, completion of a new ACH debit method program registration may be required. The taxpayer must retain the ability to pay by check or other non-EFT method in the event a debit method payment cannot be made for a period of time.

D. SERVICE PROVIDERS. All service providers must use the ACH credit method unless funds will be withdrawn directly from client bank accounts and the funds are not held in trust by the service provider prior to remittance to the State. Those service providers that qualify for the ACH debit method and wish to use it must register each client separately.

Service providers may use the ACH credit method for all client payments and the ACH debit method for those payments that are directly debited to clients' bank accounts.

E. USE OF BOTH PAYMENT METHODS BY ONE TAXPAYER. Remittances using both of the standard electronic funds transfer payment methods by one taxpayer or service provider may be allowed at the discretion of the Director in special circumstances. For example, if a taxpayer is mandated to remit withholding payments electronically and the taxpayer remits withholding tax for salaried employees and the taxpayer's service provider remits withholding tax for hourly employees, both the taxpayer and the service provider are required to remit withholding payments electronically. Because the payments are remitted by separate entities, two separate EFT methods may be used.

F. INFORMATION PROVIDED TO APPLICANTS. After approval by Maine Revenue Services, registrants will be provided with the following:

1. General EFT program information and instructions;
2. Tax-specific information; and
3. ACH credit method addenda record layouts for each type of tax payment and depository bank information, or ACH debit method data input instructions.

G. TAXPAYERS TO NOTIFY BUREAU OF CHANGES. Taxpayers using the ACH credit method are required to notify the EFT Unit of any changes to the taxpayer's registration information. This includes, but is not limited to, changes in contact person, mailing address, telephone number, tax remittance frequency, tax account number, and establishment of a new tax account.

1. Examples:

- a) A taxpayer switches from remitting sales tax individually for three or more separate accounts to remitting under one consolidated reporting number. There is a change in the taxpayer identification number.
- b) A taxpayer remitting withholding tax is now required to remit unemployment tax. The taxpayer needs remittance information for unemployment payments.
- c) The taxpayer has a new phone number and address for the EFT contact person. The EFT Unit needs to update its contact person file.

Taxpayers using the ACH debit method should consult debit program instructions regarding changes in EFT registration information.

H. CHANGING EFT PAYMENT METHODS. A change from ACH debit method program to ACH credit method program may require the taxpayer or service provider to complete a new registration application. The taxpayer must request credit program information from the EFT Unit. Taxpayers transferring from the ACH debit program to the ACH credit program may be removed from debit program databases at the discretion of the Director.

A change from ACH credit method program to ACH debit method program requires a new EFT registration in order to authorize the removal of funds from a designated bank and bank account upon taxpayer instruction.

A taxpayer request to change EFT payment methods will not be honored by the Executive Director if the taxpayer has changed methods within the previous 12 months, absent compelling circumstances.

[.05] PAYMENTS

A. GENERALLY; DUE DATES. Tax payments made by electronic funds transfer are due by the same date as otherwise provided by law or regulation. If a due date falls on a weekend or legal holiday the provisions of 36 MRSA 153 (2) apply: "When the last day, including any extension of time, prescribed under this Title for the performance of an act falls on a Saturday, Sunday or a legal holiday in this State, the performance of that act is timely if it occurs on the next succeeding day which is not a Saturday, Sunday or legal holiday in this State."

Note: the provisions of 36 MRSA 153 (1) (time of filing or paying by mail), DO NOT APPLY to remittances made by electronic funds transfer.

B. ACH CREDIT METHOD. ACH credit method transactions must be initiated and accepted by a taxpayer's financial institution at least one business day prior to the payment due date for the payment to be credited to the depository bank account on the payment due date. It is the taxpayer's responsibility to determine the transfer deadline required by their financial institution for acceptance of ACH credit transactions.

Special rules for service providers: A service provider using the ACH credit method and CTX format must use its own name in field 3, positions 5 through 20 of the '5', "Company/Batch Header Record" of the ACH file. A service provider must also use its own Employer's Identification Number in field 7, positions 40 through 54 of the '6', CTX Corporate Entry Detail Record" of the ACH file when using the ACH credit method and CTX format to make tax payments.

Service providers using the CTX format must transmit separate and unique ACH files for each designated State of Maine depository bank and bank account number.

C. ACH DEBIT METHOD PROGRAM. Taxpayers will be notified of the deadline for initiating an ACH debit method transaction for payment on the next business day. At a minimum, debit transactions must be initiated at least one business day prior to the payment due date.

D. VALUE OF PAYMENT. Electronic funds transfers, intra-bank transfers and wire transfers must be in U. S. funds.

[.06] TAX RETURNS

Payment of taxes by electronic funds transfer eliminates the necessity of filing forms 900ME (withholding coupon/voucher form), ST7S (Sales tax estimate form), 1120ES (Corporate estimate form) and other estimate, coupon or voucher forms normally required by the Director. Taxpayers will be notified on a tax-specific basis, after EFT registration, of the specific tax forms that are eliminated when electronic payments are made. Any tax returns not identified in such notification must continue to be filed by the normal statutory due dates.

[.07] REQUEST FOR WAIVER FROM MANDATORY EFT PARTICIPATION

A taxpayer may make a written request to the EFT Unit for waiver from mandatory EFT participation for good cause. Good cause determinations will be made on a case-by-case basis. The following will generally be considered by the Director to constitute good cause:

- A. The taxpayer's bank does not participate in ACH in any form. The taxpayer must provide a letter from its financial institution.
- B. The taxpayer's current tax liability and reporting trend shows a decline in the amount of reported tax liability. If projected into the future, the tax liability will not meet or exceed the applicable mandatory threshold amount.
- C. The taxpayer's tax liability during the lookback period no longer meets or exceeds the applicable mandatory threshold amount.
- D. The taxpayer's tax liability meets or exceeds the applicable mandatory threshold amount only because of uncharacteristically high tax amounts reported in 3 or fewer months of the lookback period. However, good cause does not exist under this paragraph in the case of a person reporting withholding tax on a quarterly basis.
- E. The taxpayer is under the payroll administration of the federal government.
- F. The taxpayer is required to file three or fewer times per year.

[.08] SUSPENSION FROM EFT PROGRAM PARTICIPATION

The Director may suspend a person's voluntary EFT program participation for the following reasons:

A. ACH Debit Method.

1. The person repeatedly fails to remit electronically, or fails to remit electronically on a timely basis;
 2. The person makes small dollar payments on a frequency greater than required by law on a repeated basis;
- or
3. Payments made by the person are returned for insufficient funds.

B. ACH Credit Method.

1. Payments made by the person are not accompanied by addenda records, or have repeated addenda record errors;
2. Payments made by the person are returned for insufficient funds;
3. The person repeatedly makes wire or intra-bank transfers in lieu of standard EFT payments; or
4. The person repeatedly remits funds to the wrong depository bank account for the type of tax payment.

The Director may also suspend a person's voluntary EFT program participation for other good cause. Persons suspended from voluntary EFT participation will be notified in writing.

[.09] PRENOTIFICATIONS AND TESTS

ACH CREDIT METHOD. It is recommended that taxpayers make an error-free prenotification transaction before commencing the electronic transmission of funds to Maine Revenue Services. Only one prenote test per depository bank account is necessary if payments will be made for more than one account. Preferences for prenotification type transactions are in the following order:

- (a) Zero dollar payment with addenda record information in CCD+ format;
- (b) \$.01 payment in CCD+ format with addenda record information; or
- (c) Prenotification transaction in CCD format (no addenda information).

Taxpayers are discouraged from sending test transactions for one dollar. CCD+ depositors will be notified if addenda errors are found in prenote transaction(s) or upon request.

ACH DEBIT METHOD. The Bureau recommends a successful ACH Debit method prenotification transaction before taxpayers may begin using the ACH Debit Method.

NACHA rules state that an "originator" (an originating depository financial institution) must wait a minimum of six banking days following the settlement date of a prenotification entry before transmitting the first live dollar entry. Therefore, a taxpayer's first ACH payment may be delayed due to the waiting period. Taxpayers are advised to take this into consideration when initiating their first ACH payment after sending a prenotification transaction.

Note: remittances received from taxpayers and service providers during prenote testing will be posted to taxpayer accounts as tax payments. Taxpayers should account for the payments accordingly.

[.10] CTX FILES

A. GENERALLY. Any person remitting for 25 or more separate taxpayer accounts may request to make payments using the ACH Credit Method and CTX format. CTX-formatted files will be accepted only if formatted correctly.

B. TESTING. A minimum of two (2) and a maximum of eight (8) payment transactions must be sent for \$.01 each. Payments must include addenda information for valid and active taxpayer accounts and must be correctly formatted. Transactions should include at least one payment for each separate tax type code and State of Maine designated depository bank account.

The EFT Unit will notify CTX depositors if errors are encountered in prenote transactions.

C. FILE PROCESSING. Maine Revenue Services will perform a validation check to confirm that the dollar amount deposited equals the sum of dollar amounts contained in the addenda records for each tax payment. Files that do not balance will not be processed. The submitting taxpayer will be notified of the error and may discuss remedies with the EFT Unit.

[.11] EMERGENCIES

If a normal ACH debit method or credit method transaction cannot be made due to an unusual event, taxpayers must remit by other means, including wire transfer, intra-bank transfer, or payment by check. Taxpayers paying by wire transfer or intra-bank transfer in an emergency situation are responsible for notifying the EFT unit of the following information:

- A. Payment amount;
- B. Payment date;
- C. Taxpayer name;
- D. Taxpayer identification number;
- E. Tax payment type code or payment description;
- F. Reporting period in which to post the payment; and
- G. Depository bank account number.

Credit for wire or intra-bank transfers in emergency situations will not be given unless all of the above information is provided. Payment by check should be accompanied by the appropriate tax return or other document that would normally accompany the payment if paid by check or taxpayer name, identification number, payment description, reporting period in which to post the payment, contact person, and telephone number.

[.12] PROBLEM RESOLUTION

A. RESEARCH SERVICES. The EFT unit will not verify receipt of routine EFT payments, but will assist taxpayers in resolving payment discrepancies. The EFT Unit will also research, upon taxpayer request, whether or not a particular payment has or has not been received. Taxpayers requesting research must provide the following information:

1. Requester's name if not the taxpayer;
2. Taxpayer name and phone number;
3. Payment effective date;
4. Depository bank account number;
5. Payment amount; and
6. Taxpayer identification number;
7. Tax payment type code or payment description; and
8. If ACH debit method, the payment confirmation number.

Some examples of payment discrepancies:

1. Payment posted to wrong reporting period.
2. Payment related data is incorrect or insufficient.
3. Payment posted to incorrect tax account.
4. Taxpayer received an underpayment notice when its records indicate payment was made.
5. Taxpayer received a bill for interest and penalties when its records indicate payment was remitted timely.

B. DEBIT OR ADJUSTING ENTRIES. Generally, debit or adjusting entries to State of Maine depository bank accounts are prohibited. The Bureau reserves the right to return a payment reversal if the original remittance has already been processed.

C. DUPLICATE AND OTHER ERRONEOUS PAYMENTS. Duplicate payments will be posted to the taxpayer's account, as will overpayments made to a valid tax account. Payments made in error will also be posted to that account. Other erroneous payments will be handled on a case-by-case basis. Questions should be directed to the Bureau's EFT unit.

Some examples of erroneous payments:

1. IRS remittance sent to the State of Maine;
2. Remittance for a tax in another state sent to the State of Maine;
3. Remittance for a tax or other payment not processed by Maine Revenue Services deposited into an electronic funds transfer depository bank account.
4. Remittance posted to another account.

D. REFUND OR CREDIT PROCEDURES. For instructions on refund or credit procedures, remitters should contact the Tax Division within the Bureau responsible for administering the particular tax in question (i.e., Income/Estate Tax Division, Sales/Excise Tax Division, etc.).

[.13] INTEREST & PENALTIES

A. GENERALLY; INSUFFICIENT FUNDS. Payments made by electronic funds transfer are subject to the interest and penalty provisions of Title 36 M.R.S.A., including 186, 187-A and 187-B. EFT deposits to a designated State of Maine bank account that are reversed by the State's depository bank due to insufficient funds in the originator's account are subject to the insufficient funds penalty provided by 36 M.R.S.A. section 187-B(5). When a payment is returned for insufficient funds due to a change in financial institution or bank account number by the taxpayer, the insufficient funds penalty will be imposed where the taxpayer has not followed the provisions of section .04(C)(2) above. In circumstances where the State has changed financial institutions or depository bank account numbers, payments returned for insufficient funds will incur the insufficient funds penalty when the Bureau has notified the taxpayer in writing of the change.

B. FAILURE TO FILE ELECTRONICALLY. Title 36 M.R.S.A. provides that any taxpayer required by this rule to remit taxes by electronic funds transfer that fails to do so is liable for a penalty of the lesser of 5% of the tax due or \$5,000. The law states that a failure to remit electronically has occurred when:

1. Two or more required payments in any consecutive 6-month period are either not made or are made by the taxpayer by means other than electronic funds transfer, and the taxpayer has been notified in writing by the Bureau of the noncompliance and of the fact that the penalty may be imposed; or
2. The taxpayer makes 2 or more required electronic payments in any consecutive 6-month period that do not comply with the specifications set forth in this rule.

C. WAIVER OR ABATEMENT OF PENALTIES. A taxpayer may request waiver or abatement of penalty for reasonable cause. The request must be in made in writing within 30 days of receipt of a notice from Maine Revenue Services and directed to the Tax Division responsible for administering the tax in question. "Reasonable Cause" is defined in 36 187-B(7). In addition, for purposes of the EFT program, the Director will generally make a finding of reasonable cause when it appears that the taxpayer has made a good faith effort to resolve an underpayment or late payment made electronically. In determining whether a good faith effort had been made, the Director will consider:

1. In the case of a taxpayer or service provider using the ACH credit method, whether written documentation is provided from company or bank records substantiating the taxpayer's belief that a timely payment was initiated;
2. In the case of a taxpayer or service provider using the ACH debit method, whether the person provides documentation of a payment confirmation number provided by Maine Revenue Services or its service provider when a payment was initiated;
3. In a case where the taxpayer or service provider contends that its bank has made an error, whether written documentation substantiating a bank error is provided to the Bureau;

4. In the case where the taxpayer or service provider contends that an ACH or other system failure beyond the taxpayer's control occurred; and

5. Whether remittance to satisfy the underpayment is made in a timely manner.

C. ABATEMENT OF INTEREST. Interest abatement will be considered on a case-by-case basis. Written request for abatement of interest must be made within 30 days of notification of an underpayment or late payment by the Bureau of Revenue Services. The request should be directed to the Division of Maine Revenue Services that issued the underpayment notice.

[.14] TAXPAYER/SERVICE PROVIDER RESPONSIBILITIES

A. GENERALLY. Persons remitting electronically should maintain adequate documentation to substantiate the initiation of an electronic funds transfer for payment of tax for all electronic funds transfer payment methods.

B. ACH CREDIT METHOD PROGRAM. Taxpayers and service providers who apply to remit using the ACH credit method are responsible for ensuring that their financial institution can support the ACH credit method for payments to the State of Maine. Taxpayers and service providers remitting by ACH credit method are also responsible for understanding the correct usage of the software or the service they use to remit electronically and to submit payment information contained in the "Addenda" and other sections of an ACH file in the correct format. The Bureau will provide ACH file layouts upon request.

All applicants will be provided with standard addenda record information in the TXP format for each individual type of tax payment that will be made.

Note: the Bureau of Revenue Services is not responsible for instruction on the usage and reliability of the products and services of financial institutions or other companies, nor for fees charged by financial institutions, service providers and others.

C. ACH DEBIT METHOD PROGRAM. Taxpayers are responsible for understanding and following Debit Program instructions issued by the Bureau. Taxpayers must maintain a record of the confirmation number or sequence provided when an ACH Debit Method payment is initiated, the payment amount, the payment initiation date, the tax reporting period, and the taxpayer identification number related to the payment.

D. RECORDKEEPING REQUIREMENTS. Persons remitting electronically should maintain documentation to substantiate the initiation of an electronic funds transfer for payment of tax for all EFT payment methods. Mandatory recordkeeping requirements for EFT remitters are the same as stated in 36 M.R.S.A. 135, subsection 1, which states that records pertaining to income and estate taxes must be retained as long as required by applicable federal law and regulation, while records pertaining to all other taxes must be retained for a period of at least 6 years. The statute also states that the records must be kept in such a manner as to ensure their security and accessibility for inspection by the Director.

AUTHORITY: 36 M.R.S.A. § 193.
EFFECTIVE DATE: September 23, 1998
AMENDED: January 7, 2008